

# In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO )  
INFRACTION RULES 1, 8(d) and 10(b) ) ORDER  
\_\_\_\_\_ )

The Court, having reviewed and approved a recommendation from the Misdemeanor/Infraction Rules Advisory Committee to amend the Infraction Rules;

NOW, THEREFORE, IT IS HEREBY ORDERED that Idaho Infraction Rule 1(b) as it appears in the volume published by the Idaho Code Commission be, and is hereby, repealed in its entirety and a NEW Rule 9(b) adopted to read as follows:

1. That Rule 1 be, and the same is hereby, amended as follows:

## **Rule 1. Application and Designation of Rules.**

These rules shall govern the procedure in the magistrates division of the district courts of the state of Idaho in all infraction proceedings which are triable by the magistrates division whether brought before the court by an Idaho Uniform Citation or a complaint. The administrative collection of parking and bicycle violation penalties by local municipalities under local ordinance shall not be governed by these rules, but an infraction citation or complaint for a parking violation or failure to pay a parking penalty shall be governed by these rules. The Misdemeanor Criminal Rules shall apply to the processing of infraction citations and complaints to the extent they are not in conflict with these specific rules. These rules shall be denominated the Idaho Infraction Rules, (I.I.R.).

2. That Rule 8(d) and form be, and the same is hereby rescinded, and a NEW Rule 8(d) and form adopted as follows:

## **Rule 8. Failure to appear – Default judgment – Notice of judgment.**

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(d) **Form of Notice of Default Judgment.** The form of the notice of default judgment shall be in substantially the following form:

[Court Heading]

STATE OF IDAHO ) Case No. \_\_\_\_\_  
 ) Citation No. \_\_\_\_\_  
 Plaintiff, ) DEFAULT JUDGMENT AND NOTICE OF NONCOMPLIANCE  
 ) (DUTY TO PAY OR SUSPENSION OF DRIVER'S LICENSE)  
 vs. )  
 )  
 \_\_\_\_\_, )  
 Defendant. )

**NOTICE IS HEREBY GIVEN** to the above defendant that JUDGMENT BY DEFAULT was entered against you on \_\_\_\_\_, \_\_\_\_\_, for the infraction of \_\_\_\_\_ issued on \_\_\_\_\_, \_\_\_\_\_, for the penalty of \$ \_\_\_\_\_.

**NOTICE IS FURTHER GIVEN** that if you do not pay this penalty by mail or in person by \_\_\_\_\_, \_\_\_\_\_, **your driver's license may be suspended** by the Idaho Department of Transportation or your home state pursuant to the interstate Nonresident Violator Compact. Driving with a suspended license is a criminal misdemeanor which carries a JAIL PENALTY in the State of Idaho.

**NOTICE IS FURTHER GIVEN** that the balance owing may be sent to a **collection agency** and that the collection agency can charge a collection fee up to an **additional 33%** of the balance owed. Idaho Code § 67-2358 1(b) and/or your Idaho State Income Tax return may be intercepted by the county and applied to this debt. Idaho Code § 1-1624(2).

You may pay the penalty in person or by mail at the following address:  
 Magistrate Division

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Or you may pay online at Idaho Court Pay.

You have the right to appear before the clerk BEFORE the payment date and request a court hearing to show cause why your license should not be suspended for failure to pay the penalty.

\_\_\_\_\_ Mailed to the defendant this date.

Dated \_\_\_\_\_

\_\_\_\_\_  
Clerk of the District Court

By \_\_\_\_\_

Deputy Clerk

3. That Rule 10(b) be, and the same is hereby rescinded, and a NEW Rule 10(b) adopted as follows:

**Rule 10. Failure to Pay Infraction - Suspension of Driver's License - Notice of Nonpayment - Late Payment - Receipt and Notice of Payment - Other Sanctions.**

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(b) Form of Notice of Nonpayment. A notice of nonpayment to be sent to the Department of Transportation shall be in substantially the following form:

Court Heading]

STATE OF IDAHO	) Case No. _____
	) Citation No. _____
Plaintiff,	) NOTICE OF NONPAYMENT/NONCOMPLIANCE
	) OF INFRACTION JUDGMENT
vs.	)
	)
_____ ,	)
Defendant.	)

DOB: _____	SEX: _____	)
DL OR SSN _____	(State) _____	)
CDL: _____		)
VEH LIC: _____		)
COMM VEH: _____	HAZ MTL: _____	)

TO: THE DEPARTMENT OF TRANSPORTATION, STATE OF IDAHO

NOTICE IS HEREBY GIVEN that a traffic infraction judgment was entered against the above named defendant on \_\_\_\_\_, 20 \_\_\_\_, in the above action for the infraction of \_\_\_\_\_ issued on \_\_\_\_\_, 20\_\_\_\_, for \$\_\_\_\_\_.

Defendant was given until \_\_\_\_\_, 20 \_\_\_\_\_, to pay the total amount due, and defendant has failed to pay:

After notice of judgment and opportunity for hearing.

After hearing and finding by the court that the defendant does not have a complete and continuing financial inability to pay.

YOU ARE THEREFORE REQUESTED to immediately suspend the driver's license of the defendant as provided by law or notify the Defendant's home state pursuant to the Interstate Nonresident Violator Compact.

Dated \_\_\_\_\_

\_\_\_\_\_  
Judge

4. That Rules 10(d) and (f) be, and the same are hereby amended as follows:

**Rule 10. Failure to Pay Infraction - Suspension of Driver's License - Notice of Nonpayment - Late Payment - Receipt and Notice**

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(d) ~~Form of Receipt and Notice of Payment.~~ If a defendant pays an infraction after a notice of nonpayment has been sent to the Department of Transportation under this rule, the court or the clerk shall issue a receipt and notice of payment to the defendant which shall not be mailed and transmit a copy to the Department of Transportation ~~but shall be delivered or mailed to the defendant~~ for use in applying to the Department of Transportation for reinstatement of defendant's license. ~~The receipt and notice of payment shall be in substantially the following form:-~~

***(DELETE FORM)***

(e) Other Sanctions. Nothing in this rule shall limit the inherent powers of the court to enforce its judgments and orders by execution or by other means and sanctions authorized by law.

~~(f) Signature of clerk. Notwithstanding any other provision in this rule, the court may authorize the clerk of the court to sign and send to the Department of Transportation a Notice of Non-Payment of Infraction in the form provided in subsection (b) of this rule.~~

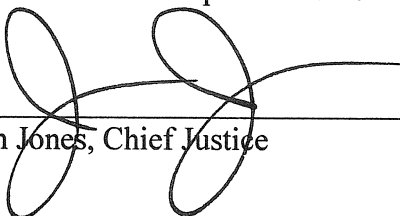
IT IS FURTHER ORDERED, that this order and these amendments shall be effective the 1<sup>st</sup> day of July, 2016.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Infraction Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 27<sup>th</sup> day of April, 2016.

By Order of the Supreme Court

  
\_\_\_\_\_  
Jim Jones, Chief Justice

ATTEST: Stephen Kenyon  
Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.

WITNESS my hand and the Seal of this Court 4.27.16

Stephen Kenyon  
\_\_\_\_\_  
Clerk

By: Jim D. Thomas  
\_\_\_\_\_  
Deputy